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AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING CHAPTER 28 OF THE PALM BEACH COUNTY CODE (ORDINANCE NO. 92-15); PERTAINING TO DISCHARGE OF FIREARMS AND FIREARM SALES IN PALM BEACH COUNTY, FLORIDA; PROVIDING DEFINITIONS; PROVIDING FOR A MANDATORY WAITING PERIOD; PROVIDING FOR A CRIMINAL HISTORY RECORDS CHECK; PROVIDING FOR ENFORCEMENT; PROVIDING FOR PENALTIES; PROVIDING FOR APPLICABILITY; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, Article VIII, Section 5 of the Constitution of the State of Florida, authorizes a county to require a criminal history records check in connection with the sale of any firearm occurring within such county; and

**WHEREAS**, Article VIII, Section 5 of the Constitution of the State of Florida, authorizes a county to require a mandatory waiting period, excluding weekends and legal holidays, in connection firearm sales within such county; and

**WHEREAS**, state and federal laws, regulating the sale and delivery of firearms, do not require a criminal history check in connection with the sale of firearms by unlicensed sellers; and

**WHEREAS**, state law provides for a mandatory three-day waiting period, excluding weekends and legal holidays, between the purchase and delivery of handguns at retail; and

**WHEREAS**, the Board of County Commissioners has determined that, for the protection of the public health, safety and general welfare of the all citizens of Palm Beach County, a three-day waiting period shall be established in connection with the sale of all handguns and a criminal history records check shall be conducted prior to sale of all firearms when any part of a

1 transaction is conducted on property to which the public has the  
2 right of access.

3 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY  
4 COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, THAT:

5 Section 1.

6 Section 28-1(a) of the Palm Beach County Code is hereby  
7 amended to read:

8 **Sec. 28-1. ~~Discharge of firearms.~~ Definitions.**

9 ~~(a) Definition of Firearm:~~

10 ~~(1) Firearm means any weapon, revolver, pistol, autoloading~~  
11 ~~pistol, modified rifle or shotgun, or any similar~~  
12 ~~mechanism by whatever name known, which is designed to~~  
13 ~~expel a projectile through a gun barrel by action of any~~  
14 ~~explosive.~~

15 As used in this chapter:

16 (a) Business Day means a 24-hour day (beginning at 12:01  
17 a.m.), excluding weekends and legal holidays.

18 (b) Handgun means a firearm capable of being carried and used  
19 by one hand, such as a pistol or revolver.

20 (c) FDLE means the Florida Department of Law Enforcement.

21 (d) Firearm means any weapon, including a starter gun or  
22 handgun, which will or is designed to or may readily be  
23 converted to expel a projectile by the action of an explosive;  
24 the frame or receiver of any such weapon; any firearm muffler  
25 or firearm silencer; any destructive device; or any machine  
26 gun.

27 (e) Licensed Dealer has the same meaning as in Title 27, Code  
28 of Federal Regulations, Part 178.

1        (f) Licensed Importer has the same meaning as in Title 27,  
2        Code of Federal Regulations, Part 178.

3        (g) Licensed Manufacturer has the same meaning as in Title  
4        27, Code of Federal Regulations, Part 178.

5        (h) NICS means the National Instant Criminal Background Check  
6        System established pursuant to Title 18, United States Code,  
7        Section 922.

8        (i) Person includes, but is not limited to, any individual,  
9        corporation, company, association, firm, partnership, society,  
10       or joint stock company.

11       (j) Sale means the transfer of money or other valuable  
12       consideration for any firearm when any part of the transaction  
13       is conducted on property to which the public has the right of  
14       access, which includes, but is not limited to, flea markets,  
15       gun shows and gun exhibitions.

16       ~~(2)~~ (k) Shotgun means a shoulder-held firearm with a smooth  
17       bore designed primarily to fire shells containing multiple  
18       projectiles (shotshells).

19       ~~(3)~~ (l) Shotshell means a metal, plastic or cardboard case  
20       containing a primer, propellant and multiple projectiles  
21       intended to be fired from a shotgun.

22       ~~(4)~~ (m) Structure means that which that is three (3) feet or  
23       more in height which is built or constructed or erected or  
24       tied down having a fixed location on the ground such as  
25       buildings, homes and mobile homes.

26       ~~(5) UDLC stands for the Unified Development Land Code upon its~~  
27       ~~effective date.~~



## Section 2.

Sections 28-1(b-d) and 28-2 of the Palm Beach County Code are hereby amended to read:

### Sec. 28-2. Discharge of firearms.

~~(b)~~ (a) *Prohibited Activity:* No person shall discharge a firearm east of the boundary described in Exhibit "A" attached hereto and made part of hereof. ~~[See page 1950.]~~ Further, no person shall discharge a firearm west of said boundary within three (300) yards of any structure.

~~(c)~~ (b) *Exceptions:* The prohibitions set forth in subsection ~~(b)~~ (a) above shall not apply to a person lawfully defending life or property or performing official duties requiring the discharge of firearms. Further, this ~~Ordinance~~ shall not apply to the discharge of firearms within the confines of approved and licensed shooting ranges as provided for in ~~Article Six~~ Article Six (6) of the Palm Beach County Unified Land Development Code, law enforcement agency ranges, existing commercial and private shooting ranges and gun clubs, and official hunting areas. The prohibition is also not applicable to the discharge of shotguns utilizing shotshells on land which is zoned agricultural and which has a minimum parcel size of five (5) acres so long as no discharge of firearms is conducted within three hundred (300) yards of any structure situated on another's property. Further, the discharge of blank or nonlethal shells or cartridges is not prohibited by this ~~Ordinance~~.

~~(d) Enforcement: It shall be the duty and responsibility of all law enforcement officials within their respective~~

1 ~~jurisdictions to enforce this ordinance and all related state~~  
2 ~~laws.~~

3 ~~Sec. 28-2. Reserved.~~

4 Section 3.

5 Section 28-3 of the Palm Beach County Code is hereby created  
6 to read:

7 Sec. 28-3. Mandatory waiting period; Criminal history records  
8 check requirement.

9 (a) No person shall deliver a handgun to another person,  
10 other than a licensed dealer, licensed manufacturer or  
11 licensed importer, in connection with the sale, as defined in  
12 Section 28-1, of such handgun for a period of three business  
13 days from the date of the sale.

14 (b) No person shall deliver a firearm to another person,  
15 other than a licensed dealer, licensed manufacturer or  
16 licensed importer, in connection with the sale, as defined in  
17 Section 28-1, of such firearm until the seller, either  
18 directly or through a licensed dealer, licensed manufacturer  
19 or licensed importer, has:

20 (1) requested a national criminal history records check  
21 of the potential purchaser or transferee of the firearm  
22 from FDLE or NICS, and

23 (2) received an approval/identification number from FDLE  
24 or NICS signifying the potential purchaser or transferee  
25 of the firearm would not be prohibited by state or  
26 federal law from receiving or possessing a firearm.

27 (c) The provisions of this section shall not apply to holders  
28 of a concealed weapons permit issued pursuant to general law

1           of the State of Florida when purchasing a firearm.

2           **Section 4.**

3           Section 28-4 of the Palm Beach County Code is hereby created  
4 to read:

5           **Sec. 28-4. Enforcement.**

6           It shall be the duty and responsibility of law enforcement  
7 officers within their respective jurisdictions to enforce this  
8 Ordinance and all related state laws.

9           **Section 5.**

10          Section 28-5 of the Palm Beach County Code is hereby created  
11 to read:

12          **Sec. 28-5. Penalty.**

13          Any person convicted of a violation of any of provision of  
14 this Ordinance shall be punished in accordance with Section  
15 125.69(1), Florida Statutes, as may be amended, by a fine not to  
16 exceed five hundred dollars (\$500.00) per violation or by  
17 imprisonment in the county jail not to exceed sixty (60) days or by  
18 both such fine and imprisonment. Each violation of this Ordinance  
19 shall constitute a separate offense. In addition to the sanctions  
20 contained herein, the county shall be authorized to take any other  
21 appropriate legal action, including, but not limited to, seeking  
22 cease and desist orders, instituting other administrative actions,  
23 and requesting temporary and permanent injunctions to enforce the  
24 provisions of this Ordinance. It is the purpose of this Ordinance  
25 to provide additional and cumulative remedies.

26          **Section 6.**

27          Section 28-6 of the Palm Beach County Code is hereby created  
28 to read:



1        Sec. 28-6. Applicability.

2            This Ordinance shall be applicable in both the unincorporated  
3        and incorporated areas of Palm Beach County, Florida, to the extent  
4        permitted by law.

5            Section 7 REPEAL OF LAWS IN CONFLICT.

6            All local laws and ordinances in conflict with any provisions  
7        of this Ordinance are hereby repealed to the extent of such  
8        conflict.

9            Section 8. SEVERABILITY.

10           If any section, paragraph, sentence, clause, phrase, or word  
11        of this Ordinance is for any reason held by the Court to be  
12        unconstitutional, inoperative, or void, such holding shall not  
13        affect the remainder of this Ordinance.

14           Section 9. INCLUSION IN THE CODE OF LAWS AND ORDINANCES.

15           The provisions of this Ordinance shall become and be made a  
16        part of the Code of Laws and Ordinances of Palm Beach County,  
17        Florida. The sections of this Ordinance may be renumbered or  
18        relettered to accomplish such, and the word "ordinance" may be  
19        changed to "section", "article", or other appropriate word.

20           SECTION 10. EFFECTIVE DATE.

21           The provisions of this Ordinance shall become effective upon  
22        filing with the Department of State.

23           APPROVED and ADOPTED by the Board of County Commissioners of  
24        Palm Beach County, Florida, on this the 23 day of  
25        February, 1999.

26           DOROTHY H. WILKIN, CLERK  
27        Board of County Commissioners

28        By Sandra C. Hickman  
29        DEPUTY CLERK

PALM BEACH COUNTY, FLORIDA, BY ITS  
BOARD OF COUNTY COMMISSIONERS

By: Maudie Ford Lee  
Chair

Underlined words (e.g. the) indicate proposed new language.  
Words stricken through (e.g. ~~the~~) indicate language proposed to  
be deleted.

1 APPROVED AS TO FORM AND  
2 LEGAL SUFFICIENCY

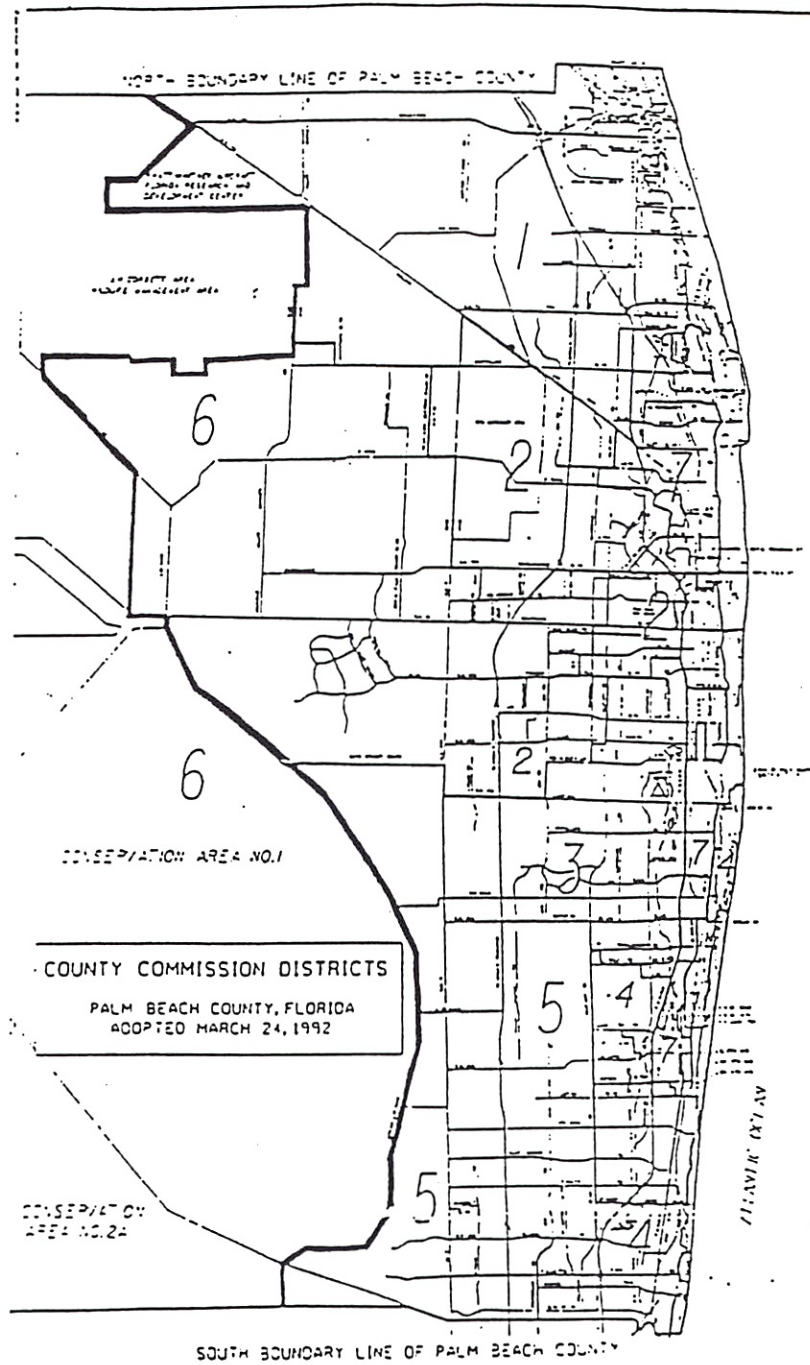
3 By: Laura Bube  
4 County Attorney

5 EFFECTIVE DATE: Filed with the Department of State on the  
6 3rd day of March, 1999.

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Exhibit A



From the Broward County line north along Canal L-36 to the Loxahatchee National Wildlife Refuge. Thence north to Southern Boulevard along Canal L-40. Thence west along Southern Boulevard to a north-south line 1 1/2 miles west of Canal L-8, which coincides with a private agricultural road heading north from Southern Boulevard at that point where State Road 880 intersects Southern Boulevard from the South. Thence north along the line of this north-south road to the boundary of the J.W. Corbett Wildlife Management Area. Thence east and north along the boundary of the J.W. Corbett Wildlife Management Area to the Martin County line.

STATE OF FLORIDA, COUNTY OF PALM BEACH  
 I, DOROTHY H. WILKEN, in office Clerk of the  
 Board of County Commissioners certify that the  
 foregoing is a true and correct copy of the  
 original of the original of the original of the original  
 on 2/23/99  
 DATED at West Palm Beach, FL on 3/11/99  
 DOROTHY H. WILKEN, Clerk  
 By: Wyllis A. House